


T. Thomas Singer, #5-1678  
 HALL & EVANS, LLC  
 175 N. 27<sup>th</sup> Street, Suite 1101  
 Billings, MT 59101  
 Telephone: (406) 969-5227  
 Facsimile: (406) 969-5233  
 Email: [singert@hallevans.com](mailto:singert@hallevans.com)

*Attorneys for Plaintiff Dave's Food Group, LLC*

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT  
 STATE OF WYOMING, COUNTY OF PARK**

<p>DAVE'S FOOD GROUP, LLC,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>WHEAT HOLDINGS, LLC d/b/a WHEAT        MONTANA FARMS,</p> <p style="text-align: center;">Defendant.</p>	<p>Civil Action No. <b>30902</b></p> <p>Judge:</p> <p style="text-align: right;">Debra Carroll Clerk of District Court</p> <p style="text-align: right;">FILED <b>APR 17 2024</b></p> <p style="text-align: right;"><b>COMPLAINT</b> by  Deputy</p>
--	---

Dave's Food Group, LLC, alleges:

1. Plaintiff Dave's Food Group, LLC ("DFG") is a Wyoming limited liability company with its principal place of business in Cody, Wyoming.
2. Defendant Wheat Holdings, LLC ("WM"), which does business as Wheat Montana Farms, is a Delaware limited liability company that is also registered to do business in Montana. Its registered agent is National Registered Agents, Inc., 3011 American Way, Missoula, MT 59808.
3. This is an action for breach of contract and related claims.
4. This Court has jurisdiction to hear this action and personal jurisdiction over the parties. Venue is proper because Plaintiff performed the contract in Wyoming.

5. On June 26, 2017, DFG and WM entered the Distribution Agreement attached as Exhibit 1 (WH000001-9). The Distribution Agreement was contingent on DFG purchasing ownership of J&B Foods. *Id.*, WH000009.

6. The Distribution Agreement gave DFG the right to sell WM's baked goods and related products at retail locations in Cody and Powell, Wyoming. DFG paid \$260,000 to JB Foods to purchase those rights. WH consented to DFG's purchase.

7. Paragraph 18 of the Distribution Agreement says: "This Agreement and its performance shall be construed in accordance with the laws of the State of Montana."

8. Paragraph 5 of the Distribution Agreement is the only provision that addresses termination. It says:

5. Term. It is anticipated that this Agreement may be renewed annually. However, either party, upon 90-days written notice to the other party, may for just cause, terminate this Agreement.

9. The Agreement was renewed annually in 2018, 2019, 2020, 2021, and 2022.

10. Neither party delivered 90-days written notice to the other party terminating the Agreement for just cause.

11. WM had no just cause for terminating the Agreement.

12. In a phone conversation on March 20, 2023, Pat Stubbs of WM told Dave McWilliams of DFG that DFG's route was being given to Franz Bakery, which had purchased WM.

13. Franz took over DFG's route on March 27, 2023.

**COUNT I: BREACH OF CONTRACT**

14. The Distribution Agreement is a contract that had a lawful object, was entered between competent parties, and was supported by consideration. It binds the parties.

15. WM breached the Distribution Agreement by terminating it without just cause, and without giving 90-days written notice to DFG.

16. WM is liable to DFG for the breach. DFG may recover reasonably foreseeable damages that directly resulted from the breach. DFG is entitled to recover an amount that will place DFG in the condition it would have been if WM had adequately performed the Agreement.

**COUNT II: TORTIOUS BREACH OF COVENANT**

17. Paragraph 23 of the Distribution Agreement states:

23. Breach of Agreement. There exists in this Agreement the expressed covenant of good faith and fair dealing. Either party found to have breached this Agreement, defamed or injured the other party shall be liable in tort for all damages caused by such injury and liable in contract for the breach of this Agreement.

18. Under Montana law, which governs here, the covenant of good faith and fair dealing requires the parties to be honest in fact and to observe reasonable standards of fair dealing in the trade.

19. WM breached the express covenant of good faith and fair dealing by taking adverse action against DFG in bad faith to avoid WM's responsibilities to DFG.

20. WM breached the covenant of good faith by demanding excessive commissions from DFG, by wrongfully accusing DFG of mailing checks to wrong locations, and by wrongfully asserting that DFG's checks were rejected by the bank.

21. WM is liable in tort for all damages caused by WM's wrongful acts.

22. The damages DFG suffered from termination include the loss of its \$260,000 investment, loss of amounts DFG invested in vehicles and facilities to perform its obligations under the Distribution Agreement, loss of commissions, and loss of time spent attempting to resolve the issues with WM.

23. In addition, because WM's conduct was outrageous, malicious, willful, and wanton, WM should be liable for punitive damages.

### **COUNT III: TORTIOUS INTERFERENCE WITH BUSINESS RELATIONS**

24. DFG developed cordial and profitable relationships with the customers to whom it delivered WM products.

25. WM tortiously and without good cause interfered with DFG's business relationships.

26. WM should be liable for damages to compensate DFG for all harm caused by WM's tortious interference.

27. In addition, because WM's conduct was outrageous, malicious, willful, and wanton, WM should be liable for punitive damages.

### **REQUEST FOR RELIEF**

Wherefore, Plaintiff Dave's Food Group, Inc., asks this Court to enter judgment against Wheat Montana awarding:

1. Damages to compensate DFG for WM's contractual breaches and tortious actions,
2. Punitive damages,
3. Prejudgment interest on the \$260,000 DFG invested to acquire distribution rights,

4. Costs as allowed by law, and
5. Any other just relief.

DATED this 11<sup>th</sup> day of April, 2024.

HALL & EVANS, LLC

By: 

T. THOMAS SINGER, #5-1678  
175 N. 27<sup>th</sup> Street, Suite 1101  
Billings, MT 59101  
Telephone: (406) 969-5227  
singert@hallevans.com

*Attorneys for Plaintiff Dave's Food Group, LLC*